



July 29, 1999

Mr. Johnny Griffin
Executive Director
Concho Valley Workforce Development Board
122 S. Oakes
San Angelo, Texas 76903

OR99-2140

Dear Mr. Griffin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126359.

The Concho Valley Workforce Development Board (the "board") received a request for a copy of a specific winning proposal and ensuing contract. You have submitted Lockheed Martin's bid proposal as being responsive to the request.¹ You state that the submitted proposal may contain proprietary information that is protected from disclosure by the Government Code. Gov't Code §§ 552.007, .305. You raise no exception to disclosure on behalf of the board, and make no arguments regarding the proprietary nature of the submitted information.

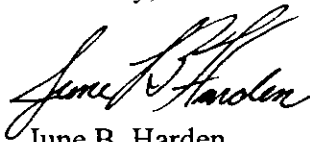
Since the property rights of a third party may be implicated by the release of the requested information, this office notified Lockheed Martin of the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). Lockheed Martin responded to our notice by arguing that portions of its proposal are protected under section 552.110 as commercial or financial information.

¹Since you have not submitted a copy of the requested contract, we presume that this information has been released. Gov't Code § 552.301. You have also submitted information that does not appear to be responsive to this request. Therefore, this ruling does not address the disclosure of these additional documents.

Section 552.110 protects the property interests of third parties by excepting from disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. In Open Records Decision No. 639 (1996), this office announced that it would follow the federal courts' interpretation of exemption 4 to the federal Freedom of Information Act when applying the second prong of section 552.110 for commercial and financial information. Thus, this office relied on *National Parks & Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974), as a judicial decision and applied the standard set out in *National Parks* to determine whether information is excepted from public disclosure under the commercial and financial prong of section 552.110. However, the Third Court of Appeals recently held that *National Parks* is not a judicial decision within the meaning of section 552.110. *Birnbaum v. Alliance of Am. Insurers*, 1999 WL 314976 (Tex. App.-Austin May 20, 1999, no pet. h.). Because neither you nor Lockheed Martin has cited to a statute or judicial decision that makes the commercial or financial information privileged or confidential, you may not withhold the requested information under the commercial or financial information prong of section 552.110.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 126359

Encl. Submitted documents

cc: Ms. Claudia Langguth
Resource Consultants, Inc.
2525 Wallingford, Suite 1503-A
Austin, Texas 78746
(w/o enclosures)